



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

Docket No. USCG-2013-0327

RIN 1625-AA08

Special Local Regulations for summer events; Captain of the Port
Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for three summer events within the Captain of the Port Lake Michigan Zone. This rule is intended to provide for the safety of life and property on navigable waters immediately prior to, during, and immediately after a triathlon and two dragon-boat races. This rule will establish restrictions upon, and control the movement of, vessels in a portion of the Captain of the Port Lake Michigan Zone.

DATES: This rule is effective on June 22, 2013 until July 21, 2013. This rule will be enforced at various times on June 22 and 23; July 12 and 13; and July 20 and 21 of 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0327. To view comments, as well as documents

mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0327) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414-747-7148 or Joseph.P.McCollum@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5

U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this temporary rule because doing so would be impracticable and contrary to the public interest. The final details for the three events listed within this temporary rule were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM.

Because each of the events listed within this temporary rule are codified within 33 CFR Part 100, the Coast Guard has taken steps to complete an update of that part. The Coast Guard has written and submitted an NPRM under the same docket number as this TFR; the NPRM addresses changes to six events within 33 CFR part 100 so that the public has opportunity to comment before a Final Rule is published. This temporary rule has been written to address minor changes in three of the events listed within 33 CFR part 100 that will take place in June and July, 2013. Delaying the effective date of this temporary rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the

hazards associated with the swim portion of a triathlon and two Dragon-boat races, which are discussed further below.

Under 5 U.S.C. 553(d)(3), The Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish Special Local Regulations: 33 U.S.C. 1233.

This temporary rule will establish restrictions upon, and control the movement of, vessels in a specified area immediately prior to, during, and immediately after three marine events. The specifics of these three events are as follows:

(1) Harborfest Dragon Boat Race; South Haven, MI. The Harborfest Dragon Boat Race is an annual event involving an estimated 250 participants maneuvering self-propelled vessels within a portion of the Black River in South Haven, MI. The organizer for this event submitted an application showing a date that is different from what is currently codified in 33 CFR 100.903. Therefore, this temporary rule will establish a special local regulation for this event on the waters of the

Black River in South Haven, MI on June 22 and 23 from 6 a.m. until 7 p.m.

(2) Chinatown Chamber of Commerce Dragon Boat Race; Chicago, IL. The Chinatown Chamber of Commerce Dragon Boat Race is an annual event involving an estimated 1000 participants maneuvering self-propelled vessels within a portion of the Chicago River in Chicago, IL. The organizer for this event submitted an application showing a date that is different from what is currently codified in 33 CFR 100.909. Therefore, this temporary rule will establish a special local regulation for this event on the waters of the Chicago River in Chicago, IL on July 12 and 13 from 11:30 a.m. until 5 p.m.

(3) Door County Triathlon; Door County, WI. The swim portion of the Door County Triathlon is expected to involve thousands of participants in the waters of Horseshoe Bay - a portion of Green Bay. As this event is currently listed within 33 CFR 100.905, the effective date expired in 2011. The Coast Guard has spoken with the event organizer and confirmed that this Triathlon is expected to occur this year. Therefore, this temporary rule will establish a special regulated area for this event on the waters of Horseshoe Bay near Egg Harbor, Wisconsin on July 20 and 21 from 8 a.m. until 9:30 a.m.

For each of these events, the Captain of the Port, Lake Michigan, has determined that the likely combination of a race

involving a large number of competitors, spectators, and transiting commercial craft in a congested area of water presents significant safety risks. These risks include collisions among competitor and spectator vessels, injury to swimmers from transiting water craft, capsizing, and drowning.

C. Discussion of Rule

This rule is intended to ensure safety of life and property on the navigable waters immediately prior to, during, and immediately after a triathlon and two dragon-boat races. This rule will establish restrictions upon, and control the movement of, vessels in a specified area of the Captain of the Port Lake Michigan zone.

The Captain of the Port, Lake Michigan will notify the public when the special local regulations in this temporary rule are or will be enforced by all appropriate means. Such means of notification will include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and

Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The special local regulations established by this rule will be periodic, of short duration, and designed to minimize impact on navigable waters. Thus, restrictions on vessel movement are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the regulated areas when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small

businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Horseshoe Bay near Egg Harbor Wisconsin; the Black River in South Haven Michigan; or the Chicago River in Chicago Illinois during the times that this temporary rule is enforced in June and/or July of 2013.

This rule will not have a significant economic impact on a substantial number of small entities for the reasons discussed in the Regulatory Planning and Review section above.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want

to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and

Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations issued in conjunction with a regatta or marine parade, and, therefore it is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination (CED) are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100- SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T09-0327 to read as follows:

§ 100.35T09-0327 Special Regulated Areas for summer events;
Captain of the Port Lake Michigan Zone.

(a) Definition. The term "Coast Guard Patrol Commander" means a Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Lake Michigan to monitor a regatta area, permit entry into the regatta area, give legally enforceable orders to persons or vessels within the regatta area, and take other actions authorized by the Captain of the Port.

(b) The following are designated as regulated areas:

(1) Harborfest Dragon Boat Race; South Haven, MI.

(i) Location. A regulated area is established on the Black River in South Haven, MI within the following coordinates starting at 42°24'13.6" N, 086°16'41" W; then southeast 42°24'12.6" N, 086°16'40" W; then northeast to 42°24'19.2" N, 086°16'26.5" W; then northwest to 42°24'20.22" N, 086°16'27.4" W; then back to point of origin. (NAD 83).

(ii) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(iii) Effective Date. These regulations are effective on June 22 and 23, 2013 from 6 a.m. until 7 p.m.

(2) Chinatown Chamber of Commerce Dragon Boat Race; Chicago, IL.

(i) Location. All waters of the South Branch of the Chicago River from the West 18th Street Bridge at position 41°51'28" N, 087°38'06" W to the Amtrak Bridge at position 41°51'20" N, 087°38'13" W. (NAD 83).

(ii) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(iii) Effective Date. These regulations are effective on July 12 and 13, 2013 from 11:30 a.m. until 5 p.m.

(3) Door County Triathlon; Door County, WI.

(i) Location. A regulated area is established to include all waters Horseshoe Bay within a 1000-yard radius from a position at 45°00'52.6" N, 087°20'6.7" W. (NAD 83).

(ii) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(iii) Effective Date. These regulations are effective on July 20 and 21, 2013 from 8 a.m. until 9:30 a.m.

DATED: June 5, 2013

M.W. SIBLEY
Captain, U.S. Coast Guard
Captain of the Port, Lake Michigan

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